

# Chapter 4: Program Income

## **HIGHLIGHTS OF CHAPTER:**

- Use of Program Income
- Examples of Program Income and Disposition Requirements
  - Addition Method of Handling Program Income
  - Sale of Property
  - Royalties
  - Attorney's Fees and Costs
  - Registration/Tuition Fees
  - Asset Seizures and Forfeitures
  - Interest Earned on LLEBG and JAIBG Grant Funds
- Accounting for Program Income
- Procedures for Recovery of Costs Incurred

## USE OF PROGRAM INCOME

Program income may be used to supplement project costs or reduce project costs, or may be refunded to the Federal government. Program income may only be used for allowable program costs and must be expended prior to additional OJP drawdowns. (The draw down restriction does not apply to LLEBG and JAIBG).

## EXAMPLES OF PROGRAM INCOME AND DISPOSITION REQUIREMENTS

1. **Addition Method of Handling Program Income.** In the absence of other restrictions on disposition contained within the award or the terms and conditions of the project, program income shall be added to the funds committed in the agreement. The program income shall be used as earned by the recipient/subrecipient for any purpose that furthers the broad objectives of the legislation under which the award was made (i.e., expanding the project or program, continuing the project or program that furthers the broad objectives of the State, obtaining equipment or other assets needed for the project or program, or for other activities that further the statute's objectives).

Responsibilities:

- a. Primary recipients of block/formula recipients will be responsible for requiring subrecipients to comply with program income guidelines.
- b. Block/formula subrecipients and the awarding agency's discretionary recipients will be responsible for the implementation and compliance of program income guidelines.
- c. Technical assistance, where needed, will be provided by the Office of the Comptroller.
2. **Sale of Property.** In the case of real property purchased in part with Federal funds, the recipient and/or subrecipient may be permitted to retain title upon compensating the awarding agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the project for which the property was acquired to the current fair market value of the property.
3. **Royalties.** Recipient shall retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise, or a specific agreement governing such royalties has been negotiated between the awarding agency and the recipient.
4. **Attorney's Fees and Costs.** Income received pursuant to a court-ordered award of attorney's fees or costs, which is received subsequent to completion of the project, is program income to the extent that it represents a reimbursement for attorney's fees and costs originally paid under the award. Disposition of such program income is subject to the restrictions on the use of program income set forth in the award.
5. **Registration/Tuition Fees.** These types of program income shall be treated in accordance with disposition instructions set forth in the project's terms and conditions.

**6. Asset Seizures and Forfeitures.** Program income from asset seizures and forfeitures is considered earned when the property has been adjudicated to the benefit of the plaintiff (i.e., law enforcement entity). Income received from the sale of seized and forfeited assets (personal or real property) or from seized and forfeited money shall follow the “Addition Method” of handling program income unless an alternate method is designated in the recipient’s award document. The following policies apply to program income from asset seizures and forfeitures:

- a. Subrecipient program income, with the approval of the recipient, may be retained by the entity earning the program income or used by the recipient for any purpose that furthers the objectives of the legislation under which the grant was made.
  - b. States or local units of government MAY USE PROGRAM INCOME FUNDS FROM SEIZED AND FORFEITURE ASSETS AS MATCH when assets are adjudicated by a State Court, in accordance with the State law. In addition, State and local units of government MAY use cash received under the equitable sharing program for the non-Federal portion (match) of program costs, as provided for in the guidelines established by the DOJ Asset Forfeiture Office, when the assets are adjudicated by a Federal Court.
- 7. Interest Earned on LLEBG and JAIBG Grants Funds.** Interest earned on LLEBG and JAIBG grant funds is considered program income and should be expended only on allowable purpose areas under these programs. Recipients are required to use all funds within the fixed expenditure period. No extensions of the expenditure periods will be approved. LLEBG and JAIBG recipients are not required to expend program income before applying Federal funds.

NOTE: Fines as a result of law enforcement activities are not considered program income.

## ACCOUNTING FOR PROGRAM INCOME

All income generated as a direct result of an agency-funded project shall be deemed program income (e.g., if the purpose of the grant is to conduct conferences, any training fees that are generated would be considered program income). Program income must be used for the purposes and under the conditions applicable to the award. Unless specified by the awarding agency, program income should be used as earned and expended as soon as possible. If the cost is allowable under the Federal grant program, then the cost would be allowable using program income. If program income earned on a discretionary grant during the grant period remains at the end of the grant period, the recipient should request a no-cost extension of the grant period to provide the recipient with ample time to expend the program income for allowable project purposes. If there is no special condition on the award concerning the accounting for program income earned after the funding period, then such program income can be used at the discretion of the recipient. The Federal portion of program income must be accounted for up to the same ratio of Federal participation as funded in the project or program. For example:

1. A discretionary project funded with 100 percent Federal funds must account for and report on 100 percent of the total program income earned. If the total program income earned was \$20,000, the recipient must account for and report the \$20,000 as program income on the Financial Status Report.

2. If a recipient was funded by formula/block funds at 75 percent Federal funds and 25 percent non-Federal funds and the total program income earned by the grant was \$100,000, \$75,000 must be accounted for and reported, by the recipient, as program income on the Financial Status Report.

## PROCEDURES FOR RECOVERY OF COSTS INCURRED

1. **Authorization of Reimbursement.** When a State or local law enforcement agency provides information to the Internal Revenue Service (IRS) that substantially contributes to the recovery of Federal taxes imposed with respect to illegal drug-related activities (or money laundering in connection with such activities), the agency may be reimbursed by the IRS for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered.
2. **Records.** The IRS shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than one State or local agency has given information, the IRS shall equitably allocate investigative costs among the agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.
3. **No Duplicative Reimbursement.** No State or local agency may receive reimbursement under Section 7624 if reimbursement has been received by the agency under a Federal or State forfeiture program or under State revenue laws.
4. **Awarding Agency Funds.** If the information/investigation is performed with awarding agency funds, the reimbursement received from the IRS would be program income and subject to the guidelines discussed above.